



COUNTY OF LOS ANGELES
OFFICE OF THE COUNTY COUNSEL

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ANDREA SHERIDAN ORDIN
County Counsel

June 14, 2011

The Honorable Board of Supervisors
County of Los Angeles
383 Kenneth Hahn Hall of Administration
500 West Temple Street
Los Angeles, California 90012

ADOPTED

BOARD OF SUPERVISORS
COUNTY OF LOS ANGELES

20 JUNE 14, 2011

Sachi A. Hamai
SACHI A. HAMAI
EXECUTIVE OFFICER

Dear Supervisors:

**SETTLEMENT OF CONDEMNATION CASE
PEOPLE OF THE STATE OF CALIFORNIA, ACTING BY AND THROUGH
THE DEPARTMENT OF TRANSPORTATION v. LOS ANGELES COUNTY
FLOOD CONTROL DISTRICT, ET AL., LOS ANGELES SUPERIOR
COURT CASE NUMBERS BC442188 AND BC441890**

SUBJECT

Recommendation to settle two eminent domain actions by the State of California, Department of Transportation ("Caltrans") against the Los Angeles County Flood Control District ("District") to acquire real property interests from the District along Centinela Creek in the cities of Los Angeles and Culver City to construct Improvements in connection with the Interstate 405 improvement Project ("Project").

IT IS RECOMMENDED THAT YOUR BOARD:

Authorize the Office of the County Counsel to settle the two eminent domain lawsuits by accepting total compensation in the amount of \$788,300, plus interest, at the statutorily-prescribed rate, from the date of possession, January 15, 2011, to the date of payment, and to stipulate to the interlocutory judgment and final order of condemnation, as described herein.

PURPOSE/JUSTIFICATION OF RECOMMENDED ACTION

A proposed settlement of these condemnation actions has been reached with representatives of Caltrans and the Los Angeles County Department of Public Works ("DPW"). Your Board's authorization is required to accept the agreed compensation from Caltrans and for County Counsel to stipulate to the interlocutory judgment and final order of condemnation.

Implementation of Strategic Plan Goals

The Countywide Strategic Plan directs the provisions of Operational Effectiveness (Goal 1). Acceptance of the revenues from this settlement will help promote fiscal responsibility for the operation and maintenance of flood control facilities and avoid litigation costs that would be incurred should the cases proceed to trial.

Strategic Asset Management Principles Compliance

Not Applicable

FISCAL IMPACT/FINANCING

Caltrans will pay to the District the sum of \$788,300 for the acquisition of the property interests, plus interest, at the statutorily-prescribed rate, from the date of possession, January 15, 2011, to the date of payment of the settlement funds. This amount will be paid and deposited into the District fund.

FACTS AND PROVISIONS/LEGAL REQUIREMENTS

Article I, section 19, of the California Constitution and the Eminent Domain Law (California Code of Civil Procedure, Part 3, Title 7, commencing with section 1230.510) require that the owner of property condemned by a public agency be compensated for the fair market value of the property interests taken.

This requirement of just compensation applies to the condemnation of property owned by a private entity as well as property owned by a public entity like the District.

Caltrans filed the two eminent domain actions to acquire easement interests in parcels of land owned by the District along Centinela Creek to construct improvements in connection with the Project. The District and Caltrans have reached a tentative settlement as follows:

- a. Caltrans will pay the District \$788,300, plus interest, at the statutorily-prescribed rate, from January 15, 2011, the date of possession, to the date of payment of the settlement funds.
- b. The District will grant Caltrans easement interests over the parcels described in the attached legal descriptions.
- c. Caltrans agrees not to perform any construction until plans and specifications have been approved by the Chief Engineer of the District.
- d. Caltrans agrees to indemnify and hold harmless the District for any liability to which the District may be subjected as a result of the grants of rights.

DPW concurs with County Counsel that the proposed settlement is appropriate and reasonable.

ENVIRONMENTAL DOCUMENTATION

The settlement of these eminent domain actions does not meet the definition of a project as defined in California Environmental Quality Act (CEQA) section 21065 because it solely pertains to the amount of just compensation Caltrans will pay to the District for the compelled acquisition of the District's property interests, and as such, there is no discretionary act by the District that will cause a direct physical change or a reasonably foreseeable indirect physical change to the environment.

CONTRACTING PROCESS

Not Applicable

IMPACT ON CURRENT SERVICES (OR PROJECTS)

There will be no impact to County's services as a result of the proposed settlement.

CONCLUSION

The proposed settlement is reasonable to both parties and is in the best interest of the District. It is requested that the Executive Officer of the Board of Supervisors return one conformed copy of this letter to the Office of the County Counsel and two copies to the Department of Public Works, Survey/Mapping & Property Management Division.

Respectfully submitted,



ANDREA SHERIDAN ORDIN
County Counsel

ASO:CBS:lm

Enclosures

c: William T Fujioka
Chief Executive Officer

Sachi A. Hamai, Executive Officer
Board of Supervisors

Gail Farber, Director
Department of Public Works

Number
79538

EXHIBIT "A"
LEGAL DESCRIPTION

File With: CENTINELA CREEK 162
190-RW 10.1
A.LN. 4134-018-900 (Portion)
T.G. 672 (H7)
I.M. 099-157
S.D. 2
M0923006

Parcel 79538-1: (Easement for highway purposes)

That portion of Lot 3 of Tract No. 9883, in the City of Culver City, County of Los Angeles, State of California as shown on Map recorded in Book 160, pages 7 and 8 of Maps, in the Office of the Registrar-Recorder/County Clerk of said county, described as follows:

Beginning at the most Southerly corner of the land acquired by the State of California as PARCEL 1 of deed (State Parcel 5025) recorded August 25, 1959 in Book D582, page 500 of Official Records in the office of said Registrar-Recorder/County Clerk; thence along the Southeasterly prolongation of the Southwesterly line of said land, S 60° 34' 08" E, 32.89 feet; thence N 29° 26' 09" E, 1.52 feet; thence N 60° 34' 38" W, 3.31 feet to a point on a non tangent curve concave Northeasterly having a radius of 483.81 feet, a radial of said curve to said point bears S 59° 50' 54" W; thence Northwesterly along said curve through a central angle of 0° 23' 15", an arc length of 3.27 feet; thence N 29° 25' 47" E, 9.33 feet; thence N 60° 34' 10" W, 15.11 feet; thence N 28° 26' 45" W, 13.77 feet to the Southeasterly line of said acquired land; thence along said Southeasterly line S 29° 25' 52" W, 19.84 feet to the point of beginning.

This conveyance is made for the purpose of a freeway and the grantor hereby releases and relinquishes to the grantee any and all abutter's rights, including access rights, appurtenant to grantor's remaining property, in and to said freeway.

This real property description has been prepared by me, or under my direction, in conformance with the Professional Land Surveyors' Act.

Signature: _____

Licensed Land Surveyor

Date: _____

11/04/10



Ex A

Number
79514

File with: CENTINELA CREEK 249
 190-RW14.1
 A.I.N. 4134-016-904 (Portion)
 T.G. 672 (H7)
 I.M. 099-157
 S.D. 2
 M0923006

EXHIBIT "A"

LEGAL DESCRIPTION

Parcel 79514-1: (Easement for freeway bridge purposes)

An aerial easement and right of way to construct, reconstruct, replace, widen, improve, inspect, test, maintain, repair, retrofit, operate or remove a freeway viaduct, supporting columns and footings, including any and all appurtenances thereto, over, under, upon and across that certain parcel of land situated in the County of Los Angeles, State of California as conveyed by the State of California to Los Angeles County Flood Control District as Parcel 3 of deed (State Parcel D-5024) recorded January 27, 1972 in Book D5334, page 91 of Official Records in the Office of the Registrar-Recorder/County Clerk of said county, described as follows:

Beginning at the most Westerly corner of said Parcel 3, said corner being a point on a curve in the generally Southwesterly boundary of said parcel, said curve being concave Northeasterly and having a radius of 1035.00 feet, a radial of said curve to said point bears S 54° 09' 59" W; thence Southeasterly along said curve, through a central angle of 4° 45' 49", an arc length of 86.05 feet to a point on a non tangent curve concave Northeasterly having a radius of 1918.25 feet, a radial of the said curve to said point bears S 45° 33' 44" W; thence leaving said generally Southwesterly boundary, Southeasterly along said last curve, through a central angle of 8° 57' 08", an arc length of 299.72 feet to a point on said generally Southwesterly boundary, said point being on a non tangent curve concave Northeasterly having a radius of 1035.00 feet, a radial of said curve to said point bears S 32° 46' 10" W; thence continuing Southeasterly along said generally Southwesterly boundary, through a central angle of 3° 20' 18", an arc length of 60.31 feet; thence S 60° 34' 08" E, 47.84 feet; thence S 63° 00' 09" E, 39.15 feet to a point hereinafter described as Point A, said last-mentioned point also being on a non tangent curve, concave Northeasterly having a radius of 1905.37 feet, a radial of said curve to said point bears S 32° 28' 06" W; thence leaving said generally Southwesterly boundary, Northwesterly along said last curve through a

83/87/11

Number
79514

central angle of $1^{\circ} 17' 10''$, an arc length of 42.77 feet; thence $N 28^{\circ} 55' 50'' E$, 23.09 feet to a point on a non tangent curve concave Northeasterly having a radius of 1638.02 feet, a radial of said curve to said point bears $S 28^{\circ} 48' 11'' W$, thence Northwesterly along said curve through a central angle of $3^{\circ} 23' 29''$, an arc length of 96.96 feet to a point on a non tangent curve concave Northeasterly having a radius of 1006.99 feet, a radial of said curve to said point bears $S 32^{\circ} 26' 15'' W$, thence Northwesterly along said curve through a central angle of $14^{\circ} 21' 13''$, an arc length of 252.27 feet, thence $S 43^{\circ} 59' 49'' W$, 12.33 feet to a point on a non tangent curve concave Northeasterly having a radius of 1905.37 feet, a radial of said curve to said point bears $S 44^{\circ} 07' 02'' W$, thence Northwesterly along said curve through a central angle of $3^{\circ} 31' 03''$, an arc length of 116.97 feet to the Southwesterly line of a 30 foot strip of land marked "Pacific Electric Railway Right of Way" on the Map of Tract No. 9883, as shown on Map recorded in Book 160, pages 7 and 8 of Maps, in the office of said Registrar-Recorder/County Clerk; thence along said Southwesterly line of 30 foot strip of land $N 60^{\circ} 34' 08'' W$, 17.30 feet to the point of beginning.

ALSO, TOGETHER with non-exclusive right of access to the aerial easement hereinabove described for the purpose of inspection, maintaining, retrofitting and repairing said freeway structures and for inspecting the uses made of the land under the aerial easement by way of such roads or passageways as may now or hereafter exist on owner's remaining property; provided, however, that State's exercise of such right of access shall not unreasonably interfere with owner's use of such roads or passageways.

RESERVING unto owner, its successors and assigns, lessees and licensees all rights in and to the airspace at an elevation higher than a plane parallel with and 9 meters above the roadway surface of said freeway structure as originally constructed, provided, that the use of such space shall not interfere with the enjoyment, safety and compatibility of said aerial easement, provided further, that owner, its lessees and/or licensees shall first secure such encroachment permits as may be required by law, which permits shall not be unreasonably withheld.

33/2E/CG

Number
79514

Encroachment permits issued to owner or its subsidiaries or affiliated companies, shall have designated across the face thereof "For Notice of Record Purposes Only"; provided however, that in case of any subsequent conveyance by owner, its subsidiaries or affiliated companies, such facilities and installations shall be subject to a standard encroachment permit.

ALSO RESERVING unto owner, its successors and assigns, the general right to use and enjoy the area of land under the aerial easement hereinabove described. The general right to use and enjoy said land by owner, its successors and assigns, shall however, be subject to the following limitations and conditions:

- 1 No use may be made of the area of land under the aerial easement hereinabove described which would impair the full use and safety of said freeway structure, or would otherwise interfere with the free flow of traffic thereon or would unreasonably impair the maintenance thereof.
2. No use may be made of the area of land under said aerial easement hereinabove described for the manufacture or storage of flammable, volatile, explosive or corrosive substances, and such substances shall not be brought onto said land except in such quantities as are normally required for the maintenance operations of occupants of said land and except as may be transported by rail or pipelines. Installation of any pipelines carrying volatile substances shall have the written approval of the State as to the safety and compatibility with freeway purposes and such discretion shall not be exercised in a capricious or arbitrary manner. The use of any such substances shall be in conformance with all applicable code requirements.
3. No hazardous or unreasonably objectionable smoke, fumes, vapors, dust or odors shall be permitted, which would adversely affect the use or maintenance of said freeway or the traveling public thereon.

11/13/08

Number
79514

4. No building of combustible construction shall hereafter be constructed on the area of land under the aerial easement hereinabove described. The State shall be given the opportunity to review and approve plans for any construction within said aerial easement area 60 days prior to said construction. No buildings, no permanent structures, and no advertising displays, may be constructed within 2.5 meters of the undersides nor within 4.5 meters (measured horizontally) of the sides of said freeway structure without the express written approval of the State. The State shall have the discretion to determine whether such proposed construction will be inimical to or incompatible with the full enjoyment of the public rights in the freeway or against the public interest, but such discretion shall not be exercised in a capricious or arbitrary manner.

EXCEPTING AND RESERVING THEREFROM all oil, oil rights, minerals, mineral rights, natural gas, natural gas rights, and other hydrocarbons by whatsoever name known that may be within the area of land hereinabove described, together with the perpetual right of drilling, mining, exploring and operating therefor and removing the same from said land or any other land, including the right to whipstock or directionally drill and mine from lands other than the area of land hereinabove described, oil or gas wells, tunnels and shafts into, through or across the subsurface of said land, and to bottom such whipstocked or directionally drilled wells, tunnels and shafts under and beneath or beyond the exterior limits thereof, and to redrill, retunnel, equip, maintain, repair, deepen and operate any such wells, or mines, without, however, the right to drill, mine, explore and operate through the surface or the upper 30.5 meters of the subsurface of said land or otherwise in such manner as to endanger the safety of any highway that may be constructed on said land.

88/08/11

Number
79514

Parcel 79514-2: (Temporary construction easement)

An easement for temporary construction purposes, in and to that certain parcel of land situated in the County of Los Angeles, State of California as conveyed by the State of California to Los Angeles County Flood Control District as Parcel 3 of deed (State Parcel D-5024) recorded January 27, 1972 in Book D5334, page 91 of Official Records In the Office of the Registrar-Recorder/County Clerk of said county, described as follows:

Beginning at Point A as hereinabove described in said Parcel 79514-1; thence Northwesterly along a non tangent curve concave Northeasterly having a radius of 1905.37 feet, through a central angle of 1° 17' 10", an arc length of 42.77 feet, a radial of said curve to said point bears S 32° 28' 06" W; thence N 28° 55' 50" E, 23.09 feet to a point on a non tangent curve concave Northeasterly having a radius of 1638.02 feet, a radial of said curve to said point bears S 28° 48' 11" W; thence Northwesterly along said curve through a central angle of 3° 23' 29", an arc length of 96.96 feet to a point on a non tangent curve concave Northeasterly having a radius of 1006.99 feet, a radial of said curve to said point bears S 32° 26' 15" W; thence Northwesterly along said curve through a central angle of 14° 21' 13", an arc length of 252.27 feet; thence S 43° 59' 49" W, 12.33 feet to a point on a non tangent curve concave Northeasterly having a radius of 1905.37 feet, a radial of said curve to said point bears S 44° 07' 02" W; thence Northwesterly along said curve through a central angle of 0° 16' 41", an arc length of 9.25 feet; thence N 46° 35' 49" E, 30.69 feet to a point hereinafter referred to as Point B on a non tangent curve concave Northeasterly having a radius of 1000.00 feet, a radial of said curve to said point bears S 47° 13' 05" W; thence Southeasterly along said curve through a central angle of 14° 40' 54", an arc length of 256.24; thence S 59° 53' 46" E, 172.89 feet; thence S 31° 14' 25" W, 42.16 feet to the generally Southwesterly boundary of said conveyed land; thence along said Southwesterly boundary N 63° 00' 09" W, 32.45 feet to the point of beginning.

TT/LB/DB

Number
79514

It is understood that when the further use of said temporary construction easement is no longer required, said parcel shall be clear of all debris and left in a neat, clean and presentable condition and this easement shall become null and void and shall terminate upon completion of said construction and in any event shall cease and terminate no later than December 30, 2012.

Parcel 79514-3: (Temporary construction easement)

An easement for temporary construction purposes, in and to that certain parcel of land situated in the County of Los Angeles, State of California as conveyed by the State of California to Los Angeles County Flood Control District as Parcel 3 of deed (State Parcel D-5024) recorded January 27, 1972 in Book D5334, page 91 of Official Records in the Office of the Registrar-Recorder/County Clerk of said county, described as follows:

Beginning at Point B as hereinabove referred in said Parcel 79514-2; thence Northeasterly continuing along said course described above as N 46° 35' 49" E, a distance of 1.49 feet to the generally Northeasterly boundary of said conveyed land; thence along said Northeasterly boundary S 60° 34' 08" E, 310.05 feet; thence leaving said Northeasterly boundary S 29° 25' 52" W, 1.02 feet to said Northeasterly boundary; thence along said Northeasterly boundary N 84° 17' 03" W, 22.33 feet to the angle point thereof; thence continuing along said Northeasterly boundary S 60° 34' 08" E, 470.05 feet; thence leaving said Northeasterly boundary S 29° 25' 51" W, 26.22 feet; thence N 60° 35' 52" W, 212.01 feet; thence N 58° 03' 04" W, 188.60 feet; thence N 59° 53' 46" W, 88.78 feet to a point on a non tangent curve concave Northeasterly having a radius of 978.18 feet, a radial of said curve to said point bears S 31° 33' 44" W; thence Northwesterly along said curve through a central angle of 11° 09' 12", an arc length of 190.42 feet; thence S 43° 45' 22" W, 21.97 feet to a point on a non tangent curve described above in said Parcel 79514-2 having a radius of 1000.00 feet, a radial of said curve to

11/15/08

Number
79514

said point bears S 42° 38' 03" W; thence Northwesterly along last said curve through a central angle of 4° 35' 02", an arc length of 80.00 feet to the point of beginning.

It is understood that when the further use of said temporary construction easement is no longer required, said parcel shall be clear of all debris and left in a neat, clean and presentable condition and this easement shall become null and void and shall terminate upon completion of said construction and in any event shall cease and terminate no later than December 30, 2012.

This real property description has been prepared by me, or under my direction, in conformance with the Professional Land Surveyors' Act.

Signature: Kilyong K. Yi
Licensed Land Surveyor

Date: 11/04/10



83/07/11